

Exhibit 5

Considered: _____

WATER PERMIT NO. 5723-3

886-2577

Phone: ~~498-7642~~

Name of Applicant: CSS Farms c/o Jim Endres

Post Office Address: RR 3, Box 138B, Watertown SD 57201

Amount of Water Claimed: 2.22 Total Acres: 160 ac

Source of Water Supply: groundwater

Water to be used for: irrigation County: Roberts

About 2 miles NW of Ortley

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F.& C/.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY Date Received: 10-13-92 Fee: \$250 Remarks _____

Corrected Application Received 10-20-92 Period of Annual Use April 1 - Oct 31

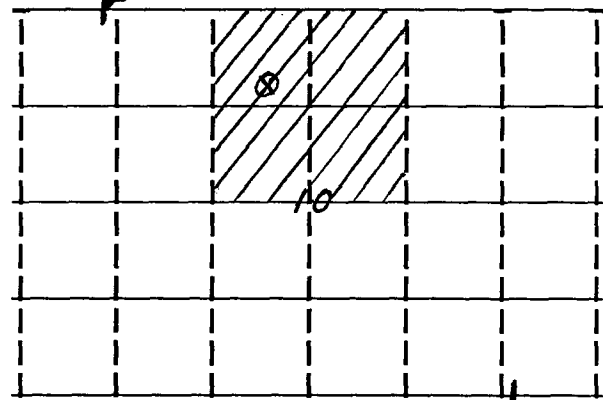
WATER QUALITY APPROVAL RECEIVED 10-30-92 APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES ☒ NO _____ REMARKS _____

Diversion Point: ^E NW 1/4 NW 1/4 Sec 10-T122N-R52W

Land to be Irrigated: E 1/2 NW 1/4 and

W 1/2 NE 1/4 Sec 10-T122N-R52W



Well Log: Driller: LTP Enterprises Licensed YES ☒ NO _____

Depth of Well: 72' REMARKS _____

Type of Map: aerial PREPARED BY: Diane, ASCS Reviewed and the Number

dated on 10-28-92 By Karen Schlaak

(See instructions)

No. 5723-3 Hydrologic Unit 10160010
Basin James River
Newspaper Sisseton Courier, Box 169

Application For Soil/Water Compatibility Permit and Permit To Appropriate Water

Type of Application: ☐ New ☐ Vested Right ☐ Amend Permit No. _____
☐ Change Acreage ☐ Change diversion points ☐ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____

1. Name of Applicant Jim Endres C/O CFS Farms Phone No. 886-2577

Post Office Address RR3 Box 137 B Sisseton State SD Zip Code 57201
(Street, RR or Box) (City)

2. Amount of water claimed (c.f.s.) 2.22 Total acres irrigated 160

3. Source of Water supply Ground Water

4. Location of point of diversion 1 well NE 1/4 of NW 1/4 Sec 12-7-22 N-R52W

County Roberts

5. Counties where water will be used Roberts

6. Annual period during which water is to be used April - Oct 31

7. List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.
NE 1/4 of NW 1/4 Sec 12-7-22 N-R52W	40
SE 1/4 of NW 1/4 "	40
SW 1/4 of NE 1/4 "	40
NW 1/4 of NE 1/4 "	40

Land Description	No. Acres Irr.

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: _____ Towline: _____ Center Pivot: X Gun: _____ (Specify) _____ Other: _____

9. Crops to be irrigated: Potatoes, Corn, & Beans

10. Give a description of proposed project. (Attach sheet if more space is needed)

Irrigation Project for Potatoes, Corn, & Beans. Water Source will be wells approximately 60'-80' deep. Plan to irrigate in the Spring of 1992

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, information and any other technical information.

STATE OF SOUTH DAKOTA)
County of Codington) ss

I, Jim Endres, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Jim Endres

Subscribed and sworn to before me this 9th day of October 1992

Ralph D. Aitman
Notary Public

Comm. Expires: 4/30/98



SOUTH DAKOTA
WATER PERMIT NO. 5723-3 FOR IRRIGATION

Date of first receipt of application October 13, 1992.

Date Soil/Water Compatibility Permit received October 30, 1992.

Date of return to applicant for corrections, amendments or changes October 16, 1992.

Date of receipt of corrected application October 20, 1992.

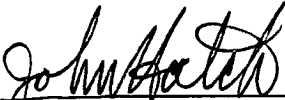
The Water Management Board approved Water Permit Application No. 5723-3 on December 1, 1993 for CSS Farms, c/o Jim Endres, RR 3, Box 138B, Watertown SD 57201 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5723-3 appropriates 2.22 cubic feet of water per second from one well (Coteau Lakes Aquifer) 72 feet deep located in the NE 1/4 NW 1/4 Section 10 to irrigate 160 acres located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 Section 10; all in T122N-R52W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 - October 31.
3. The date from which applicant may claim right is October 13, 1992.
4. One-fifth of the construction is to be completed on or before June 1, 1996.
5. All construction is to be completed on or before December 1, 1998.
6. Water is to be put to beneficial use on or before December 1, 2002.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 5723-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

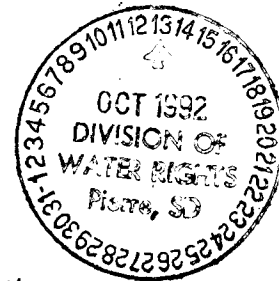
WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

NOV 14 1994
date

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter 18" Depth 72
- b) Casing Type Steel Diameter 12" Thickness .375"
- c) Screen Type Stainless Steel Diameter 12" Thickness .5"
- d) Gravel Pack Thickness 2.63' Length of Gravel Pack 52'
- e) Depth to Top of Water Bearing Material 2'
- f) Depth to Water (ground surface to water level) 25.5'
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others 3400'

2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____
 If Pipe, diameter _____

f) Secondary Spillway Capacity _____
 Spillway width _____

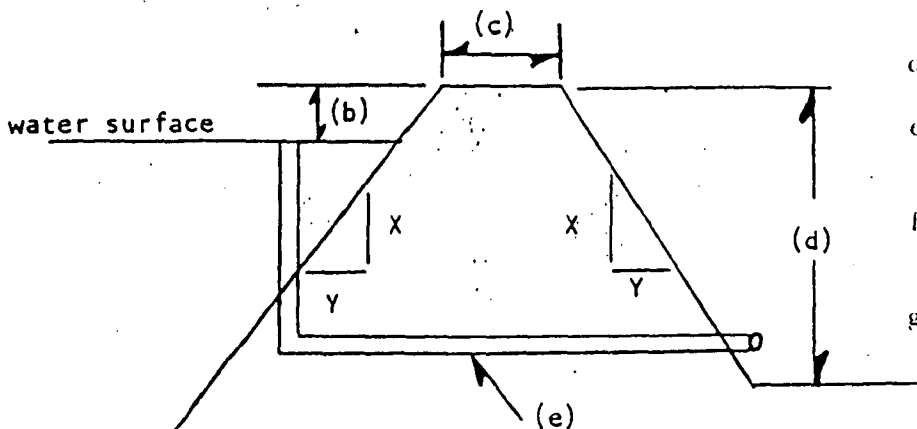
g) X & Y Slope
 Upstream _____

Downstream _____

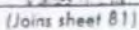
Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant



T. 122 N.



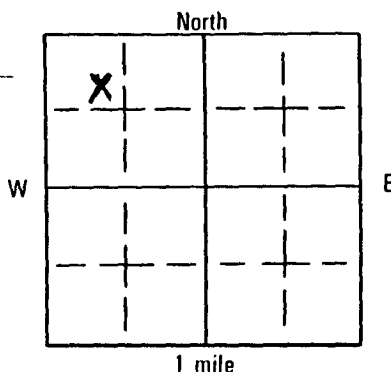
OCT-09-1992 13:45 FROM LTP ENTERPRISES INC. TO 582-941439605

SOUTH DAKOTA WATER WELL COMPLETION REPORT

10-85

Location NW 1/4 Sec 10 Twp 122 Rg 52

County _____

Please mark well
location with
an "X"Well Completion Date 10-22-92

PROPOSED USE:

- ☐ Domestic ☐ Municipal ☐ Test Holes
☒ Irrigation ☐ Industrial ☐ Stock

Method of Drilling:

Forward Rotary

CASING DATA:

- ☒ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>49.5</u> LB/FT	<u>12</u> IN	<u>12</u> FT	<u>58.5</u> FT	<u>17.5</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUT:

Was the well grouted? ☒ YES ☐ NOTo what depth? 30 FEETWhat is grouting material? Neat Cement

If cement, number of sacks? _____

Describe grouting procedure Pumped in through Tremie PipeWhat was grout weight? 15 LB/GALSCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 12 IN Length 13 FEETMaterial 5-S.Slot Size 125 Set From 58.5 Feet To 71.5 Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Other information _____

Was a packer or seal used? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

Was well disinfected upon completion? ☒ YES ☐ NOExplain Flooded w/ chlorinated H₂OBacteriological analysis ☐ YES ☒ NO

Laboratory sent to _____

Well Owner: James Ehlers Farms
Name C/O C.S.S. CorporationAddress Box 138B Watertown, SD 57201

Well Log: _____ Depth _____

Formation		From	To
Top Soil	Black	G.L.	2
Sand + Gravel	Brown	2	52
Clay	Brown	52	53
Sand + Gravel	Brown	53	55
Clay	Gray	55	59
Sand + Gravel	Brown	59	72
Clay	Gray	72	75

STATIC WATER LEVEL 27.54 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

If other, specify _____

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped☐ Bailed

Describe: _____

☐ Other

Pumping Level Below Land Surface

51.80 ft. After 12 Hrs. pumped 904 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

REMARKS:

This well was drilled under license # 381

And this report is true and accurate.

Drilling firm L.T.P. Enterprises Inc.

Signature of License Representative:

Randy P. Pulk

Signature of Well Owner:

By R. SpelDate 1-22-93

RECEIPT

413469

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, October 16, 19 92

RECEIVED OF CSS Company, RR 3 Box 138B, Watertown, SD 57201

the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>5723-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	250	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	250 00

By John Hatch
Chief Engineer

5724-3

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4731

WR#

OWNERS NAME: JIM ENDRES
c/o CSS FARMS

OWNERS ADDRESS: RR 3 BOX 138B
WATERTOWN SD 57201

COUNTY LAND LOCATED IN: ROBERTS PHONE: 886-2577

LEGAL DESCRIPTION:

(2) ☒ Wells☐ Surface1. LOCATION NE $\frac{1}{4}$ NW $\frac{1}{4}$ 10-T122N-R52W

Depth _____

Legal Description	Acres	Legal Description	Acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 10-T122N-R52W	40	SE $\frac{1}{4}$ NW $\frac{1}{4}$ 10-T122N-R52W	40
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 10-T122N-R52W	40	NW $\frac{1}{4}$ NE $\frac{1}{4}$ 10-T122N-R52W	40

2. TYPE OF IRRIGATION: GRAVITY _____ TOWLINE _____ CENTER PIVOT: XXX GUN _____ (Specify) _____

3. CROPS TO BE IRRIGATED: POTATOES, CORN, BEANS

WATER QUALITY:

4. WATER SAMPLE NUMBER: 92-04407. ADJUSTED (SAR): 0.305. SALINITY (EC X 10⁶): 5208. PERCENT SODIUM: 3.826. SODIUM (SAR): 0.13

Requirements:



Russell J. Shaw

Director, Division of Conservation

XXX APPROVED

DISAPPROVED

WAIVER

REQUIREMENTS

OCTOBER 27, 1992

Date

Soil/water permits will be recorded by the Department
of Agriculture, with the County Register of Deeds.

CSS FARMS

"Committed To Quality And Service"

RR 3 - Box 138B
Watertown, South Dakota 57201-9348
Office (605) 886-2577

October 9, 1992

FAX (605) 886-2586
Potato Storage (605) 886-9749



Jim Goodman
Water Rights Division
Department of Water and Natural Resources
523 East Capitol
Pierre, SD 57501-3181

Dear Jim:

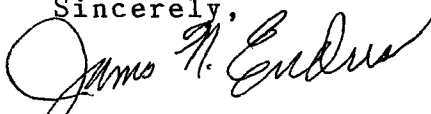
I am writing to request authorization to drill and test pump two test wells to be located in the NW 1/4 of Section 10-T122N-R52W and the SE 1/4 of Section 3-T122N-R52W.

Plans are to drill and test pump these two wells during the middle of October.

Water permits are currently being applied for on these parcels.

Thank you for your consideration.

Sincerely,


James N. Endres



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

October 16, 1992

Jim Endres
c/o CSS Farms
RR 3, Box 138B
Watertown SD 57201

Dear Mr. Endres:

In regard to the two water permit applications received on October 13, 1992, enclosed are the aerial photos submitted with the applications. On the maps, please outline the lands to be irrigated and indicate the proposed location of each of the diversion points.

The water permit application can not be considered until the application is complete and a soil/water permit is obtained from the Department of Agriculture. Upon receipt of the above, further processing of your application will continue.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

October 19, 1992

James N. Endres
CSS Farms
RR 3, Box 138B
Watertown, SD 57201-9348

Dear Mr. Endres:

As requested, pursuant to South Dakota Well Construction Standard 74:02:04:21, CSS Farms is authorized to construct and test pump two test wells prior to approval of a water permit. The wells are to be located in the NW 1/4 of Section 10-T122N-R52W, and the SE 1/4 of Section 3-T122N-R52W. The test wells must be constructed in accordance with the SD Well Construction Standards. Any test holes that are abandoned must be plugged pursuant to the SD Well Construction Standards.

Very truly yours,

JAMES A. GOODMAN, P.E.
Natural Resources Engineer
for JOHN HATCH, Chief Engineer
Water Rights Division
(605) 773-3352

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: CSS Farms Applications - Jim Endres

ADDRESS: RR 3 Box 138B, Watertown, SD COUNTY: Roberts

DATE: 10/22/92 TELEPHONE: _____

RE: Call from Randy Spevak

COMMENTS:

Randy Spevak called Jim Goodman in regards to CSS Farms water permit applications submitted on October 13, 1992. Mr. Spevak said that each of the applications would be for only utilize one well instead of the two listed on the application.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric Thonlund

REPORT ON APPLICATION NOS. 5723-3 & 5724-3
for CSS Farms
November 5, 1992

Water Permit Application No. 5723-3 proposes to appropriate 2.22 cfs (1000 gpm) from one well approximately 72 feet deep located in the NE 1/4 NW 1/4 of section 10 to irrigate 160 acres located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 of section; all in T122N R52W in Roberts County and within the former boundaries of the Sisseton Wahpeton Indian Reservation.

Water Permit Application No. 5724-3 proposes to appropriate 2.22 cfs (1000 gpm) from one well approximately 66 feet deep located in the NW 1/4 SE 1/4 of section 3 to irrigate 160 acres located in the SE 1/4 of section 3; all in T122N R52W in Roberts County and within the former boundaries of the Sisseton Wahpeton Indian Reservation.

AQUIFER - COTEAU LAKES (COL)

The Coteau Lakes is an unconfined glacial outwash (sand and gravel). The Coteau Lakes aquifer extends into Day County to the west and into Grant County to the south where the aquifer may be hydraulically connected to the Big Sioux North aquifer and could possibly be the recharge area for the Prairie Coteau aquifer. There is no estimate available for the amount of water in storage or the areal extent of the Coteau Lakes aquifer in Roberts County. However, based upon drilling for observation wells in this area the aquifer is extensive, underlying at least 48 square miles and containing at least 180,000 acre feet of recoverable water in storage (my estimate).

The Division of Water Rights monitors 8 observation wells completed into the Coteau Lakes aquifer in southwestern Roberts County. Water levels for these wells show good response to climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years. There are two observation wells RB-77T and RB-76A which are located about 1 mile north and 1 mile south respectively of these applications. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 1992).

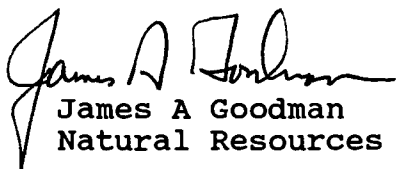
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There is one existing irrigation water permit No. 4041-3 which is located about 1 mile north of application No. 5723-3 and 1/2 mile north of application No. 5724-3. The diversion points for Water Permit No. 4041-3 may be about 1/4 mile northeast of the proposed diversion point for application No. 5724-3. Interference is not expected to be a problem. Drawdown will occur as a result of pumping, but in a shallow water table aquifer such as the Coteau Lakes, this should not be significant at a distance of 660 feet

from the individual production well. This is also indicated by the observation well record.

CONCLUSIONS

1. Water is available from the Coteau Lakes aquifer.
2. Interference is not expected to be a concern. Significant drawdown due to pumping is not expected to extend past 660 feet from the pumping well.
3. Any wells authorized by these applications must be constructed in accordance with SD Well Construction Standards.
4. The N 1/2 SE 1/4 of section 3 is already covered by Water Permit No. 4041-3. The system authorized by Permit No. 4041-3 appears to extend into the N 1/2 SE 1/4 of section 3. The combination of diversions authorized by 4041-3 and Application No. 5724-3 can not exceed the statutory limit of 2 acre feet per acre.



James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

Water Rights, 1992, Unpublished Observation Well Records for Roberts County, SD DENR, Division of Water Rights, Pierre, SD, 57501.

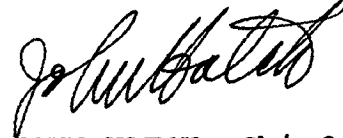
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5723-3, CSS Farms

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit Application No. 5723-3, CSS Farms, c/o Jim Endres, RR 3 Box 138B, Watertown, SD 57201.

The Chief Engineer is recommending APPROVAL of Application No. 5723-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 5723-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.



JOHN HATCH, Chief Engineer
November 13, 1992



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.

November 16, 1992

Jim Endres
CSS Farms
RR 3 Box 138B
Watertown, SD 57201

Dear Mr. Endres:

Water Permit Application Nos. 5723-3 and 5724-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Sisseton Courier printed at Sisseton, SD (Ph # 698-7642). For your information, a copy of the notice, the recommendations of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the applications.

Sincerely,

Eric Gronlund /ks

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the applications.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

November 16, 1992

Sisseton Courier
Box 169
Sisseton, SD 57262

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application Nos. 5723-3 and 5724-3 to be published twice. Please publish the first notice on November 25, 1992, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Jim Endres, CSS Farms, RR 3 Box 138B, Watertown, SD 57201 (Ph # 698-7642).

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. No action may be taken on the permit applications until proof of publication has been received.

Sincerely,

Eric Gronlund /KS

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to
Appropriate Water by Application No. _____ which was first published in our issue
of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on November 25, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application Nos. 5723-3 and 5724-3 to Appropriate Water

Notice is given that CSS Farms, c/o Jim Endres, RR 3 Box 138B, Watertown, SD 57201 have filed applications for water permits.

Water Permit Application No. 5723-3 appropriates 2.22 cubic feet of water per second (cfs) from one well (Coteau Lakes Aquifer) 72 feet deep located in the NE 1/4 NW 1/4 Section 10 to irrigate 160 acres located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 Section 10; all in T122N-R52W.

Water Permit Application No. 5724-3 appropriates 2.22 cfs from one well (Coteau Lakes Aquifer) 66 feet deep located in the NW 1/4 SE 1/4 Section 3 to irrigate 160 acres located in the SE 1/4 Section 3; all in T122N-R52W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 5723-3 and 5724-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the applications or the applicant files a petition contesting the chief engineer's recommendations, the Water Management Board will NOT CONDUCT a HEARING to consider the applications and the chief engineer will issue the permit as recommended. Petitions filed in support of the applications will NOT require the Board to hear the applications.

Any person interested in opposing or supporting the applications must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 14, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application Nos. 5723-3 and 5724-3 and 2) the chief engineer's recommendations, a meeting at the Division of Water Rights office to hear the applications is scheduled for December 22, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If the applications are opposed or the recommendations are contested, the December 22, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The December 22, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the applications. The request for an automatic delay must be filed by December 14, 1992.

If a hearing is held, the Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the applications based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by December 14, 1992, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

OK

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County ROBERTS) ss.



I, JACK ADAMS

certify that the attached printed Notice was taken
 from the SISSETON COURIER

A newspaper which during the whole time of publication of
 said notice herein after stated, has been and is printed and
 published in the _____

CITY of SISSETON

County of ROBERTS and State of South Dakota;
 that the said notice was published in said newspaper on the
 following two dates:

Nov. 25, 1992

Dec. 2, 1992

[Signature]
 (Signature)

[Signature]
 PUBLISHER
 (Title)

12-2-92
 (Date Signed)

Cost of Printing: \$72.34
142 LINES @ 28.3¢, FIRST INSERTION, SECOND
INSERTION 80%

**NOTICE OF HEARING
 ON APPLICATION NOS.
 5723-3 AND 5724-3 TO
 APPROPRIATE WATER**

Notice is given that CSS Farms, c-
 o Jim Endres, RR 3 Box 1208,
 Watertown, SD 57201 have filed
 applications for water permits.

Water Permit Application No.
 5723-3 appropriates 2.22 cubic feet of
 water per second (cfs) from one well
 (Coteau Lakes Aquifer) 72 feet deep
 located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 10
 to irrigate 160 acres located in the
 E $\frac{1}{2}$ NW $\frac{1}{4}$ and the W $\frac{1}{2}$ NE $\frac{1}{4}$ Section
 10; all in T122N-R52W.

Water Permit Application No.
 5724-3 appropriates 2.22 cfs from one
 well (Coteau Lakes Aquifer) 66 feet
 deep located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$
 Section 3 to irrigate 160 acres
 located in the SE $\frac{1}{4}$ Section 3; all in
 T122N-R52W.

Pursuant to SDCL 46-2A-2, the
 Chief Engineer recommends AP-
 PROVAL of Application Nos. 5723-3
 and 5724-3 because 1) unap-
 propriated water is available, 2)
 existing rights will not be unlawfully
 impaired, 3) it is a beneficial use of
 water, and 4) it is in the public in-
 terest. Unless a petition is filed
 opposing the applications or the
 applicant files a petition contesting
 the chief engineer's recomm-
 endations, the Water Management
 Board will NOT CONDUCT a
 HEARING to consider the ap-

(over)

Applications and the Chief Engineer will issue the permit as recommended. Persons filing in support of the applications will not require the Board to hear the applications.

Any person interested in opposing or supporting the applications must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition opposed to the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre, SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 14, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application Nos. 5723-3 and 5724-3 and 2) the chief engineer's recommendations, a meeting at the Division of Water Rights office to hear the applications is scheduled for December 22, 1992, at 9:00 am in Room 23, Joe Foss Building, 523 E Capitol, Pierre, SD. If the applications are opposed or the recommendations are contested, the December 22, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The December 22, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the applications. The request for an automatic delay must be filed by December 14, 1992.

If a hearing is held, the Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the applications based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or

cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by December 14, 1992, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are made pursuant to SDCL 46-11 thru 46-19, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

(Nov. 25-Dec. 2-2w)

PETITION OPPOSING APPLICATIONS FOR WATER PERMITS
#5723-3 and 5724-3 - CSS FARMS



We, the undersigned landowners of Ortley Township and Alto Township, Roberts County, South Dakota are interested in the above cited water permit applications by virtue of the fact that we live and own land within eight (8) miles of the proposed well sites.

We oppose the applications for these permits for the following reasons:

1. Petitioners are of the opinion that existing irrigation wells have affected the level of Hurricane Lake.
2. Petitioners are of the opinion that existing irrigation wells have caused existing domestic wells to produce "cloudy water" during periods while irrigation pumps are being run and several days thereafter.
3. Petitioners are concerned that this additional irrigation will wash pesticides and fertilizer chemicals into the aquifer polluting it.
4. Petitioners are concerned about the availability of water for existing domestic wells.

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Each signer or circulator must add the mailing address of the signer's residence and the date of signing.
3. Abbreviations, including DITTO MARKS, may be used.

NAME	RESIDENCE MAILING ADDRESS	DATE
1. Willis Hamman	RI Box 106 Summit So Dak	12-8-1992
2. Pearl Hamman	RI Box 106 Summit So Dak	12-8-1992
3. Delwin Pies	RR1 Box 113 Waubay So Dak	12-8-1992
4. Eun Pies	RR1 Box 113 Waubay SD	12-8-92
5. Endora Pies	RR1 Box 115 Waubay SD	12-8-92
6. Evelyn Pies	RR1 Box 115 Waubay SD	12-8-92
7. Lyle Anderson	RR1 Box 110 Waubay SD	12-8-92
8. Donald Anderson	RR1 Box 110 Waubay SD	12-8-92
9. Neil Anderson	RR1 Box 110 Waubay SD	12-8-92
10. Darrell D. Pies	RR1 Box 118-B Waubay SD	12-8-92
11. Curtis Pies	RR1 Box 103 Summit S.D.	12-8-92
12. Margaret Hamman	RR1 Box 103 Summit SD	12-8-92
13. Greg Pearson	RR1 Box 47 Ortley S.D.	12-9-92
14. Vernon Pearson	RR1 Box 87 Summit S.D.	12-9-92
15. Lora Pearson	RR1 Box 87 Summit S.D.	12-9-92
16. Allan Pearson	RR1 Box 47 Ortley, S.D.	12-9-92
17. Carol Miller	RT1 Box 90 Summit S.D. 57266	12-9-92
18. Gary Miller	RI Box 90 Summit S.D. 57266	12-9-92
19. Michael Miller	RT1 Box 92 Summit S.D. 57266	12-9-92
20. David Miller	RT1 Box 92 Summit S.D. 57266	12-9-92
21. Bob Hill	RR1 Box 98 Summit S.D. 57266	12-9-92
22. Lynn Hansen	RR1 Box 102 Summit S.D. 57266	12-9-92
23. Ed Wyman	RI Box 103 Summit SD	12-9-92
24. Gerald S. S.	RI Box 115A Waubay SD	12-9-92
25. Vera Pies	RR1 Box 115A Waubay SD	12-9-92
26. Susan S. S.	RI Box 115A Waubay SD	12-9-92
27. Carol S. S.	RI Box 116 Waubay SD	12-9-92
28. Jane Hamman	RT1 Box 111 Waubay SD	12-9-92

	NAME	RESIDENCE MAILING ADDRESS	DATE
29.	Violet Wanger	Rt 1 - Box 117 Summit SD 57266	12-9-92
30.	Arthur Mallory	Rt 1 - Box 104 Summit SD 57266	12-9-92
31.	Nettie Mallory	Rt 1 Box 104 Summit SD	12-9-92
32.	Duane G. Tiskowich	Rt 1 Box 116 Wanbury SD	12-9-92
33.	E. Everett Gies	RR 1 Box 106 Summit SD	12-9-92
34.	Alvin Riker	RR-1 Box 99 Wanbury SD	12-9-92
35.	Lois Schocker	RR 1 Box 116 Summit SD	12-9-92
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VERIFICATION BY PERSON CIRCULATING PETITION

STATE OF SOUTH DAKOTA)

COUNTY OF Roberts) ss.

I, under oath, state that I circulated the above petition, that each signer personally signed this petition in my presence, and that either the signer or I inserted the residence mailing address of the signer and date of signing.

(Signed) Willis Hamman (Address) Rt 1 Box 106 Summit SD

Subscribed and sworn to before me this 9th day of December, 19 92

(Seal)

Kathleen Anall

Officer Administering Oath

My commission expires: 9-25-98



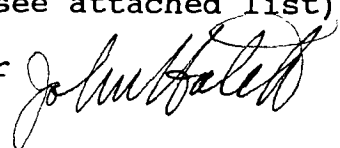
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

December 15, 1992

NOTICE

TO: Jim Endres
CSS Farms
RR 3, Box 138B
Watertown, SD 57201
and Parties of Record (see attached list)

FROM: John Hatch, Chief Engineer 
Water Rights Division
605 773-3352

SUBJECT: Rescheduling of Hearing on Water Permit Application
Nos. 5723-3 and 5724-3, CSS Farms

A petition in opposition to Water Permit Application Nos. 5723-3 and 5724-3 has been filed by area residents (copy enclosed). The hearing before the Water Management Board will no longer be held on December 22, 1992.

The Water Management Board will consider Water Permit Application Nos. 5723-3 and 5724-3, on March 3, 1993 at 11:00 am in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Ave., Pierre, SD 57501. The agenda time is an estimate and may be delayed due to prior agenda items.

Applicable provisions of the notice of hearing published November 25 and December 2, 1992 in the Sisseton Courier will still apply at this hearing.

If you have any questions regarding the location of the Board meeting or the water permit application, please contact Eric Gronlund at 773-3352.

cc: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on December 15, 1992, I have personally deposited with the United States Mail at Pierre, South Dakota, First Class postage, prepaid envelopes containing a Notice dated December 15, 1992, regarding Rescheduling of Hearing on Water Permit Application Nos. 5723-3 and 5724-3, CSS Farms addressed to:

Jim Endres
CSS Farms
RR 3 Box 138B
Watertown, SD 57201

and Parties of Record (as shown on the attached list)

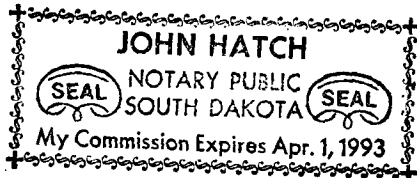
Jaci R Konop

JACI R. KONOP
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 22nd day of December, 1992.

John Hatch
Notary Public



PARTIES OF RECORD

WATER PERMIT APPLICATION NO. 5723-3, CSS FARMS

CSS Farms
Jim Endres
RR 3, Box 138B
Watertown, SD 57201

Delwin and Ann Pies
RR 1, Box 113
Waubay, SD 57273

Lyle, Donald G. and Neil Anderson
RR 1, Box 110
Waubay, SD 57273

Curtis and Margaret Hanssen
RR 1, Box 103
Summit, SD 57266

Vernon and Iona Pearson
RR 1, Box 87
Summit, SD 57266

Michael C. and Janet Miller
Rt 1, Box 92
Summit, SD 57266

Anne and Ed Wangen
RR 1, Box 102
Summit, SD 57266

Dean P. Gaikowski
Rt 1, Box 118A
Waubay, SD 57273

Diane Hamman
Rt 1, Box 111
Waubay, SD 57273

Arthur and Nettie Mallery
Rt 1, Box 104
Summit, SD 57266-9742

Alvin Aker
RR 1, Box 99
Waubay, SD 57273

Willis and Pearl Hamman
RR 1, Box 106
Summit, SD 57266

Rudolph and Evelyn Pies
RR 1, Box 115
Waubay, SD 57273

Darrell D. Pies
RR 1, Box 118B
Waubay, SD 57273

Gregory and Collin Pearson
RR 1, Box 47
Ortley, SD 57256

Caroll and Gary C. Miller
Rt 1, Box 90
Summit, SD 57266

Bob Hills
RR 1, Box 98
Summit, SD 57266

Gerald and Lora Pies
RR 1, Box 115A
Waubay, SD 57273

Carol and Duane J. Gaikowski
Rt 1, Box 116
Waubay, SD 57273

Violet Wangen
Rt 1, Box 117
Summit, SD 57266

Everett Pies
RR 1, Box 68
Summit, SD 57266

Doris Schocker
RR 1, Box 116
Summit, SD 57266



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

February 16, 1993

NOTICE

TO: Jim Endres
CSS Farms
RR 3, Box 138B
Watertown, SD 57201
and Parties of Record (see attached list)

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Hearing on Water Permit Application Nos. 5723-3 and
5724-3, CSS Farms

This notice is to serve as a reminder of the hearing before the Water Management Board on Water Permit Application Nos. 5723-3 and 5724-3.

The Water Management Board will consider Water Permit Application Nos. 5723-3 and 5724-3 on March 3, 1993 at 11:00 am in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501. The agenda time is an estimate and may be delayed due to prior agenda items.

Applicable provision of the notice of hearing published November 25 and December 2, 1992 in the Sisseton Courier will still apply at this hearing.

If you have any questions regarding the upcoming hearing on these water permit applications, please contact Eric Gronlund at 773-3352.

cc: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 17, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 16, 1993, regarding Hearing on Water Permit Application Nos. 5723-3 and 5724-3, CSS Farms addressed as stated below, and on the attached list:

Jim Endres, CSS Farms, RR 3, Box 138B, Watertown, SD 57201.

Copy Sent Inter-office To:

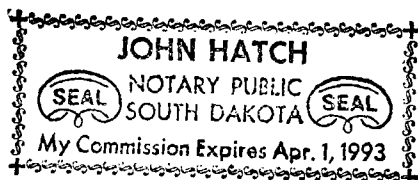
Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

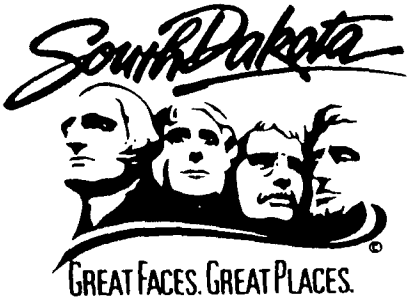
Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 22nd day of February, 1993.



John F. Atch
Notary Public



March 11, 1993

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

NOTICE

TO: Jim Endres
CSS Farms
RR 3, Box 138B
Watertown, SD 57201
and Parties of Record (see attached list)

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Deferral of Water Permit Application Nos. 5723-3 and
5724-3, CSS Farms

On March 3, 1993, the Water Management Board **DEFERRED** consideration of Water Permit Application Nos. 5723-3 and 5724-3. The applications were deferred to allow time to investigate concerns expressed by petitioners in opposition to the applications.

Testimony at the March 3, 1993 hearing included: 1) concern with possible contamination of the aquifer by pesticides and fertilizers; 2) why certain ponds are devoid of wildlife; 3) drawdowns of lakes and creeks in the area alleged to be caused by irrigation pumping; and 4) why a domestic well produces "milky" water when existing irrigation systems are operating.

The Board requested an investigation to determine if the applications should be denied, or if qualifications to approval could be developed that would protect the water source. The Water Rights Division does not expect to complete this investigation prior to the May 5 and 6, 1993 Board meeting. The following Board meeting is scheduled for July 7 and 8, 1993. Future notice of the date, time, and location of the hearing before the Board on these deferred applications will be provided to all parties of record.

If you have any questions regarding the deferral of this application or the future scheduling of the hearing on the application, please contact Eric Gronlund at 605 773-3352.

cy: Diane Best, Assistant Attorney General
Randy Spevak, CSS Farms
Brad Berven, Department of Agriculture

CERTIFICATION

I hereby certify that on March 11, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 11, 1993, regarding Deferral of Water Permit Application Nos. 5723-3 and 5724-3, CSS Farms, along with a copy of the Parties of Record addressed as stated below and on the attached list:

Jim Endres, CSS Farms, RR 3, Box 138B, Watertown, SD 57201.

Randy Spevak, CSS Farms, RR 3, Box 138B, Watertown, SD 57201.

Copy Sent Inter-office To:

Diane Best, Assistant Attorney General, Capitol Building.

Brad Berven, Department of Agriculture, Anderson Building.

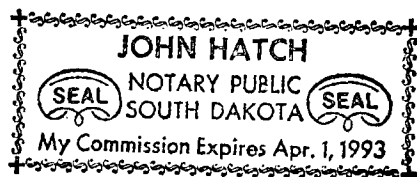
Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of March, 1993.

John Hatch
Notary Public



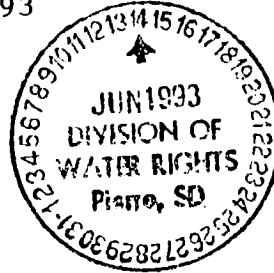
CSS FARMS

"Committed To Quality And Service"

RR 3 - Box 138B
Watertown, South Dakota 57201-9348
Office (605) 886-2577

June 10, 1993

FAX (605) 886-2586
Potato Storage (605) 886-9749



John Hatch
Chief Engineer
Water Rights Division, DWR
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3831

Dear John:

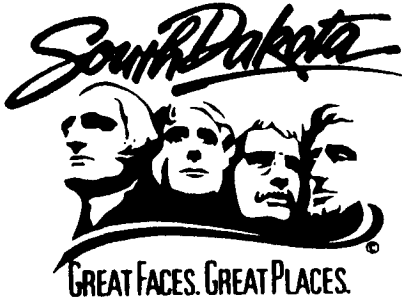
I am writing to request that water permit application numbers 5723-3 and 5724-3 be heard by the Water Management Board at the earliest possible date.

We have lost the 1993 irrigation season on these parcels as a result of the boards action at the March meeting and feel that any further delay will jeopardize the 1994 irrigation season.

If there is any information I can provide to help expedite this matter, please let me know.

Sincerely

Richard R. Spevak



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

June 11, 1993

Randy Spevak
CSS Farms
RR 3, Box 138B
Watertown, SD 57201-9348

Dear Mr. Spevak:

I am writing in response to your inquiry on the hearing for CSS Farm's Water Permit Application Nos. (5723-3) and 5724-3. The Water Management Board deferred these applications on March 3, 1993 to allow time to investigate concerns expressed by petitioners in opposition to the applications. The hearings will not be held at the July 7 and 8, 1993 Board meeting.

Jim Goodman will be scheduling a trip to the area to investigate the concerns raised by the petitioners. Mr. Goodman will inform you when he plans to conduct the site investigation.

The hearings on these applications will tentatively be scheduled for the Board's September 1 and 2, 1993 meeting.

If you have questions regarding the site investigation or scheduling of the hearing before the Board, please contact Eric Gronlund at 605 773-3352.

Very truly yours,


John Hatch, Chief Engineer
Water Rights Division
605 773-3352

cy: Diane Best, Assistant Attorney General



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

June 11, 1993

NOTICE

TO: Jim Endres
RR 3, Box 138B
Watertown, SD 57201-9348
and Parties of Record

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Status of Hearing on Water Permit Application Nos.
5723-3 and 5724-3, CSS Farms

The Water Management Board will not conduct a hearing at the July 7 and 8, 1993 meeting on Water Permit Application Nos. 5723-3 and 5724-3 for CSS Farms. These applications were deferred by the Board on March 3, 1993.

We have tentatively scheduled the hearings on these applications for the September 1 and 2, 1993 Board meeting. Future notice of the date, time, and location of the hearing before the Board will be provided to all parties of record.

If you have any questions on the future scheduling of the hearing on the application, please contact Eric Gronlund at 605 773-3352.

cy: Diane Best, Assistant Attorney General
Randy Spevak, CSS Farms
Brad Berven, Department of Agriculture

CERTIFICATION

I hereby certify that on June 11, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 11, 1993, regarding Status of Hearing on Water Permit Application Nos. 5723-3 and 5724-3, CSS Farms, along with a copy of the Parties of Record addressed as stated below and on the attached list:

Jim Endres, RR 3, Box 138B, Watertown, SD 57201-9348.

Randy Spevak, CSS Farms, RR 3, Box 138B, Watertown, SD 57201-9348.

Copy Sent Inter-office To:

Diane Best, Assistant Attorney General.

Brad Berven, Department of Agriculture, Anderson Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 14th day of June, 1993.



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

June 18, 1993

Delwin Pies
RR 1, Box 113
Waubay, SD 57273

Dear Mr. Pies:

Enclosed is a copy of the Minutes from the March 3, 1993 Water Management Board meeting.

If I may be of additional assistance, please contact me.

Sincerely,

Eric Gronlund
Water Rights Division
605 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

August 9, 1993

NOTICE

TO: Jim Endres
CSS Farms
RR 3, Box 138B
Watertown, SD 57201
and Parties of Record (see attached list)

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Rescheduling of Hearing for Water Permit Application Nos.
5723-3 and 5724-3, CSS Farms

The Water Management Board will consider Water Permit Application Nos. 5723-3 and 5724-3 on September 1, 1993 at 2:00 pm in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501. The actual time of the hearing may be later than 2:00 pm due to prior agenda items. These application were DEFERRED at the March 3, 1993 Board meeting to allow time to investigate concerns expressed by petitioners in opposition to the applications.

Applicable provisions of the notice of hearing published November 25 and December 2, 1992 in the Sisseton Courier will still apply at this hearing. This hearing is an adversary proceeding. Any party of record has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Jim Goodman and Gary Haag conducted a site investigation of the area on June 22, 1993. The lab analysis from the surface water samples taken at that time have not been completed by the Water Resources Institute. The Institute has advised that the analysis will be completed prior to the Board hearing.

Contact Eric Gronlund by August 20, 1993 at 773-3352 to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

cy: Diane Best, Assistant Attorney General
Brad Berven, Department of Agriculture

CERTIFICATION

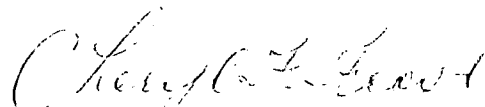
I hereby certify that on August 9, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated August 9, 1993, regarding Rescheduling of Hearing for Water Permit Application Nos. 5723-3 and 5724-3, CSS Farms, along with a copy of the Parties for Record addressed as stated below and on the attached list:

Jim Endres, CSS Farms, RR 3, Box 138B, Watertown, SD 57201.

Copy sent inter-office to:

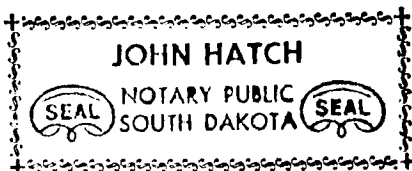
Diane Best, Assistant Attorney General, Capitol Building.

Brad Berven, Department of Agriculture, Anderson Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 10th day of August, 1993.




Notary Public
JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



September 3, 1993

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

NOTICE

TO: Delwin and Ann Pies
RR 1 Box 113
Waubay, SD 57273

Gerald Pies
RR 1 Box 115A
Waubay, SD 57273

Randy Spevak and Milt Carter
CSS Farms
RR 3 Box 138B
Watertown, SD 57201

Willis Hamman
RR 1 Box 106
Summit, SD 57266

Dean R. Gaikowski
RR 1 Box 118A
Waubay, SD 57273

FROM: John Hatch, Chief Engineer
Water Rights Division
(605) 773-3352

SUBJ: Preparation of Findings of Fact, Conclusions of Law and
Final Decision

The Water Management Board has directed John Guhin, the Board's attorney, to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision to approve Water Permit Application Nos. 5723-3 and 5724-3, CSS Farms. The Board will consider the proposed Findings, Conclusions and Final Decision at 1:00 p.m., December 1, 1993, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The agenda time is an estimate. The actual time of consideration may be delayed due to prior agenda items.

The Board has requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and the parties listed above by November 10, 1993. Any comments pertaining to the proposed Findings, Conclusions and Decision are to be mailed to each Board member, the Board attorney and the parties above by November 22, 1993.

The public hearing was completed on September 1, 1993. No additional testimony will be received on December 1, 1993.

c: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on September 3, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, First Class postage, prepaid envelopes containing a Notice dated September 3, 1993, regarding Preparation of Findings of Fact, Conclusions of Law and Final Decision (Water Permit Application Nos. 5723-3 and 5724-3, CSS Farms) addressed to:

Delwin and Ann Pies, RR 1 Box 113, Waubay, SD 57273

Gerald Pies, RR 1 Box 115A, Waubay, SD 57273

Randy Spevak and Milt Carter, CSS Farms, RR 3 Box 138B,
Watertown, SD 57201

Willis Hamman, RR 1 Box 106, Summit, SD 57266

Dean R. Gaikowski, RR 1 Box 118A, Waubay, SD 57273

A copy of the Notice was also sent inter-office to:

John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General

Jaci R Konop

JACI R. KONOP
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 10th day of September, 1993.

John H. Bates
Notary Public

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF	)	FINDINGS OF FACT,
APPLICATION NOS. 5723-3	)	CONCLUSIONS OF LAW AND
AND 5724-3; CSS FARMS	)	FINAL DECISION

FINDINGS OF FACT

I

These Findings, Conclusions and Final Decisions consider Water Permit Applications No. 5723-3 and No. 5724-3. The matters are considered together because the issues are intertwined, and because the parties have, without objection, treated the two Applications together in their presentation of evidence and argument. Water Permit Application No. 5723-3 proposes to appropriate 2.22 cfs (1,000 gpm) from one well approximately seventy-two feet deep located in Roberts County. Water Permit Application No. 5724-3 proposes to appropriate 2.22 cfs (1,000 gpm) from one well approximately sixty-six feet deep located in Roberts County.

II

The source of water for the application is the Coteau Lakes aquifer. This aquifer was formed by repeated deposits on the top of ice as glaciers moved in to and receded from the area.

III

Total water in storage in the Coteau Lakes aquifer in the affected area is approximately 184,320 acre feet. The recharge of the aquifer is approximately 11,520 acre feet per year. The typical permitted water use of the Coteau Lake's

aquifer in the area has ranged from a low of 218 acre feet in 1991 to 1,155 acre feet in 1988.

IV

Analysis of water levels in observation wells in the area indicates that the wells are highly responsive to annual precipitation. The well levels have risen and fallen between eight to ten feet in a ten to fifteen year period of time. The well levels are, at present, at their highest levels since the first well was drilled in 1976. The very substantial fluctuations in water levels can be due only to precipitation events. The Board finds that the relatively minor withdrawals of water under irrigation permits are too insubstantial to have affected, in a significant way, water levels in wells, creeks, or dugouts.

V

The Board therefore finds that there is a reasonable probability that there is unappropriated water available for the applicants' proposed use.

VI

Opponents to the permit, Mrs. Ann Pies and Mr. Delwin Pies, have requested the Board to disapprove the permit on the ground that the chemical applications made to potatoes and other crops on the newly irrigated soil may be harmful. Opponents believe that, as a result of irrigation to the north of the proposed irrigation, chemicals were added to water used by them and caused cancer in their son. In particular, opponents believe that such contamination of the water caused Jared Pies to

contract retinal blastoma. Opponents frankly admit, however, that they are unable to produce scientific proof that contamination of water caused the cancer.

VII

The Board expresses its total sympathy to the Pies family. The Board, however, is unable to find evidence to support the thesis that chemicals in the water, at the rate in which they are typically found in South Dakota and in which they are found in this area, are harmful to health.

VIII

First, the Board examines the existing studies of pesticides and nitrates in groundwater. The evidence demonstrated that during 1981-1991, groundwater in the Brookings, Hamlin and Kingsbury County agricultural area has been monitored by the State. Approximately 1,600 samples were taken during this period. Furthermore, groundwater has been monitored by the State for the past five years in Turner, Potter and Charles Mix County and particularly in the Delmont area. Approximately 1,200 samples were taken during this period. This latter project includes cropland under intense irrigation and areas with no irrigation. Furthermore, the latter project includes areas which are characterized by surficial aquifers or, in other words, aquifers which exist very close to the surface of the land. Such aquifers are quite similar to those involved in the present litigation except, perhaps, that in many cases they are closer to the surface than those involved in this case.

IX

Those studies showed between 6 to 20% of samples in the combined studies taken had detectable level of pesticides. In no case, however, were samples shown to have exceeded health advisory levels or maximum contaminant levels set by the Environmental Protection Agency.

X

A further factor which to some extent alleviates concern is that there was no consistent trend with regard to the chemicals. In other words, in a typical situation, i.e. over 80% of the time, a chemical was found in a particular well at a low level and never found again. This demonstrates that there is no buildup of chemicals within the groundwater tested.

XI

The Board notes that no definitive reason has been developed why there is no accumulation of chemicals. It has been hypothesized, however, that the chemicals may simply be quickly diluted or be quickly breaking down.

XII

The Board finds that the conclusions which might be drawn from the two studies cited above of groundwater in other areas are applicable to the area under consideration, at least insofar as evidence has been presented to the Board.

XIII

In particular, the Board finds that after the first hearing on this matter, two wells specifically designed for the monitoring of chemicals were installed. The first of these was

RB-93A. It is upgradient of one of the existing irrigation permits (a permit not squarely at issue here but a permit which is suspected by the opponents of causing the tragic cancer). A second monitoring well, again designed for the measuring of chemicals, was installed approximately one mile downgradient of the irrigation operation. That well is RB-93B. The Board notes that, in this regard, it credits the testimony of James Goodman that the gradient of groundwater in the area follows the surface water gradient and flows to the southwest.

XIV

Analysis of the contaminant levels in RB-93A (upgradient) and RB-93B (downgradient) showed the same characteristics as analysis of samples of other groundwater in other parts of the state. Only a single contaminant was found in either of the wells. The upgradient well RB-93A showed a level of 2, 4D of .13 parts per billion. The level of 2, 4D found was less than one five-hundredth of the maximum contaminant level for drinking water for 2, 4D. The downgradient well showed no contaminants.

XV

In addition, samples were taken from a dugout and from stream flow below one of the questioned existing irrigation system. Both samples showed levels of atrazine at .01 PPB. This is the detection level for atrazine. The levels detected are approximately one three hundredth of the maximum contaminant level for atrazine allowed by EPA.

XVI

The opponents to the permit argue that because of the operation of biological magnification, minor pollutants can become a serious threat because they are concentrated. The opponents also argue that studies have indicated that levels which are acceptable for an adult can be very detrimental to a child in that they can cause cell damage, altered DNA and mutations such as cancer. Opponents again frankly admit, however, that they are not scientists. Moreover, opponents have been unable to submit to the Board evidence that the particular contaminants at issue can, in the quantities detected in the water, cause harm to human beings of any age or condition.

XVII

The Board further finds that, although opponents express their sincere concern that chemicals from an existing irrigation operation may have harmed their son, that the existing pivots are not at issue in the proceeding. The Board finds, furthermore, that the opponents' household is somewhat upgradient from the new applications and hence these applications are less likely to affect them, even assuming the validity of the overall argument made by the opponents.

XVIII

Other opponents have pointed to the allegations of misuse by the applicant of chemicals in other localities. The evidence presented was clearly hearsay and no pattern of misconduct was demonstrated.

XIX

The Board finds that development of this irrigation permit will promote the local economy. Approximately \$1,000 per acre will be spent per acre for the growing of potatoes. Of this, approximately \$800 will involve locally purchased goods which will aid the local economy.

XX

The Board finds that the intention of the applicant to utilize the University of Wisconsin Management Program for the application of fungicides should minimize the potential for overuse of such fungicides. This is because the program keeps close track of essential environmental data before determinations are made on when to utilize the fungicides.

XXI

The Board finds that certain advantages accrue through the use of fertilizer in an irrigation program. In particular, CSS Farms testified it never applies more than sixty units of nitrogen at any one time while a dry land farmer, who will typically apply his total nitrogen at one time, will apply one hundred units of nitrogen at one time.

XXII

The Board has examined the complaints of Mr. Hamman with regard to cloudiness in his domestic well. The allegation of Mr. Hamman was that existing irrigation wells caused the cloudiness. The Board finds, consistent with evidence at the hearing, that Mr. Hamman's domestic well is not in the same aquifer of the irrigation wells in question.

CONCLUSIONS OF LAW

I

The Board has jurisdiction of this matter.

II

The proposed diversion can be developed without unlawful impairment of existing rights if developed in accordance with the qualifications set out in the Final Decisions.

III

The Board also concludes that the proposed use is in the public interest. The Board's conclusion follows its close analysis of the testimony and data regarding chemicals in water and its findings in relation to those issues. The Board has thus weighed the scientific evidence regarding chemical use, and the low and intermittent levels of chemicals in this and similar aquifers, as set forth in more detail above, against the probable substantial economic benefit for the area and the state of the development of irrigation, and has determined that the project is in the public interest as qualified in the Final Decisions.

IV

The Board also concludes that a contrary decision in this would undermines its statutory duty to grant irrigation permits when the prerequisites for a permit are found to exist. If the Legislature should direct that permits not be granted in situations such as this, of course, the result would be different.

FINAL DECISION WITH REGARD TO APPLICATION NO. 5723-3

Application No. 5723-3 is granted with the following qualifications:

I

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

II

The well authorized by Permit No. 5723-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

III

This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

FINAL DECISION WITH REGARD TO APPLICATION NO. 5724-3

Application NO. 5724-3 is granted with the following qualifications:

I

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control

his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

II

The well authorized by Permit No. 5724-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

III

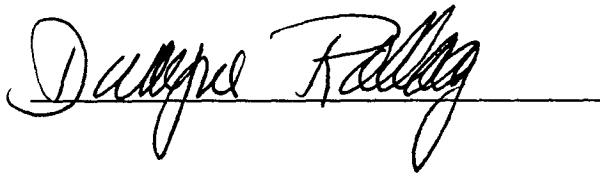
This permit is approved subject to the irrigation water use questionnaire being submitted each year.

IV

The diversion rate from Water Permit No. 4041-3 and this Permit, combined, shall not exceed the statutory limit of 1 cfs per 70 acres and 2 acre-feet per acre.

Dated this 13th day of December, 1993.

BY THE BOARD:

A handwritten signature in cursive script, appearing to read "Dwayne Kelly", is written over a horizontal line.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

January 5, 1994

NOTICE

TO: Randy Spevak and Milt Carter
CSS Farms
RR 3, Box 138B
Watertown, SD 57201

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Adoption of Findings of Fact, Conclusions of Law and
Final Decision

This is to notify you that a Final Decision, including Findings of Fact and Conclusions of Law, was adopted by the Water Management Board for Water Permit Application Nos. 5723-3 and 5724-3, CSS Farms at the December 1, 1993, meeting.

A copy of the signed final Decision, Findings and Conclusions is enclosed for the applicant. Copies will be furnished to anyone else upon request. South Dakota Statutes provide that decisions of the Board may be appealed to the Courts.

cc: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on January 5, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated January 5, 1994, along with a copy of Findings of Fact, Conclusions of Law and Final Decision, regarding Findings of Fact, Conclusions of Law and Final Decision addressed as stated below:

Randy Spevak and Milt Carter, CSS Farms, RR 3, Box 138B, Watertown, SD 57201.

Copy of Notice sent to:

Delwin and Ann Pies, RR 1, Box 113, Waubay, SD 57273.

Gerald Pies, RR 1, Box 115A, Waubay, SD 57273.

Willis Hamman, RR 1, Box 106, Summit, SD 57266.

Dean R. Gaikowski, RR 1, Box 118A, Waubay, SD 57273.

Copy of Notice sent Inter-office to:

John Guhin, Deputy Attorney General, Capitol Building.

Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of January, 1994.



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

NOV 14 1994

Jim Endres
CSS Farms
RR 3 Box 138B
Watertown, SD 57201

Dear Mr. Endres:

Enclosed are Water Permit Nos. 5723-3 and 5724-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the systems and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water Licenses may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

enclosures

PLEASE NOTE: Certain changes can be made in your permits within the five year construction period, usually without affecting the priority date provided an application to amend your permits is made within the five year period - i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

Take 3

NOTICE OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE

Date 12/20/95

TO: Water Rights Division, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM: CSS Farms 3334 9th Ave SW
(name) (address)
Watertown, SD 57201 605/886-2577
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 5723-3.

Water Permit No. 5723-3 states that the diversion system is to be constructed by 12/1/98, and that the water is put to beneficial use by 12/1/02.
(date) (date)

The diversion system was completed on 5/1/95.
(date)

Applying the water to beneficial use was completed on 6/1/95.
(date)

You may schedule an inspection so that the Water License may be issued.

Milton J. Cant
(signature)

Permit No. 5723-3
James River - Water District

**Report Of Examination Of Works And/Or Application of Water To
Beneficial Use**

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

On, August 14, 1996, I made a thorough examination of the water use system constructed by CSS Farms of 3334 9th Ave, Watertown, SD holder of Permit No. 5723-3, bearing the priority of October 13, 1992 authorizing the diversion of 2.22 cu. ft. per second of the waters of groundwater, Coteau Lakes Aquifer for irrigation purposes, in Roberts County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

Morrison Brothers submersible pump with a 900 gpm capacity.

B. Works used to transport water to place of use:

350 ft of 8 inch PVC

C. Works used to apply water to beneficial use:

A Valley center pivot

The system is in the following condition good. The point of diversion is located from the NW corner of Section 10 T122N-R52W: 1050 ft South and 2400 ft East. The works are capable of diverting and conveying to the place of use 2.01 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

All Land located in Sec 10 T122N-R52W:

NE1/4 NW1/4 - 33 ac

NW1/4 NE1/4 - 33 ac

SE1/4 NW1/4 - 33 ac

SW1/4 NE1/4 - 33 ac

comprising a total of 132 acres of land and the license should be issued for 1.89 cfs.

Applicable permit qualifications have been complied with: yes

Exceptions to compliance are: none



Mark D. Rath
Natural Resources Engineer

8/27/96

Date

REPORT ON INSPECTION OF PERMIT NO. 5723-3

DATE OF INSPECTION: 8/14/1996

Contact Person & Address: Milt Carter, 3334 9th Ave SW, Watertown, SD

DIVERSION POINT LEGAL LOCATION: from the NW corner of Sec 10 T122N-R52W:
1050 ft South and 2400 ft east.

WATER SUPPLY Source: groundwater, Coteau Lakes Aquifer

Well Information:

- | | |
|--|-------------------------------------|
| 1) Well Drilling Firm: <u>LTP Enterprises, Inc</u> | 2) No. of Wells <u>1</u> |
| 3) Depth(s) <u>71.5</u> feet | 4) Well log is available <u>yes</u> |

Casing:

- | | |
|------------------------------|----------------------------|
| 1) Diameter <u>12</u> inches | 2) Length <u>58.5</u> feet |
| 3) Type <u>steel</u> | |

Screen:

- | | |
|--------------------------------------|--------------------------|
| 1) Type <u>stainless steel</u> | 2) Length <u>13</u> feet |
| 3) Static water level <u>27</u> feet | |

Pump:

- | | |
|------------------------------|-----------------------------|
| 1) Make <u>Morrison Bros</u> | 2) Model <u>submersible</u> |
| 3) Size <u>10</u> | 4) Capacity <u>900</u> GPM |

Motor:

- | | |
|----------------------------------|---------------------------------|
| 1) Make <u>?</u> | 2) Model No. <u>submersible</u> |
| 3) Horsepower rating <u>?</u> hp | |

DISTRIBUTION LINES OR CANALS:

- | | | |
|--------------------|-------------------------|---------------------------|
| 1) Type <u>PVC</u> | 2) Size <u>8</u> inches | 3) Length <u>350</u> feet |
|--------------------|-------------------------|---------------------------|

SYSTEM TYPE:

Center pivot:

- | | |
|------------------------------|------------------------------------|
| 1) Make <u>Valley</u> | 2) Overall length <u>1280</u> feet |
| 3) Number of towers <u>7</u> | 4) End gun <u>yes</u> |

- 5) High or low pressure high 6) Capacity 900 GPM

CHEMIGATION EQUIPMENT:

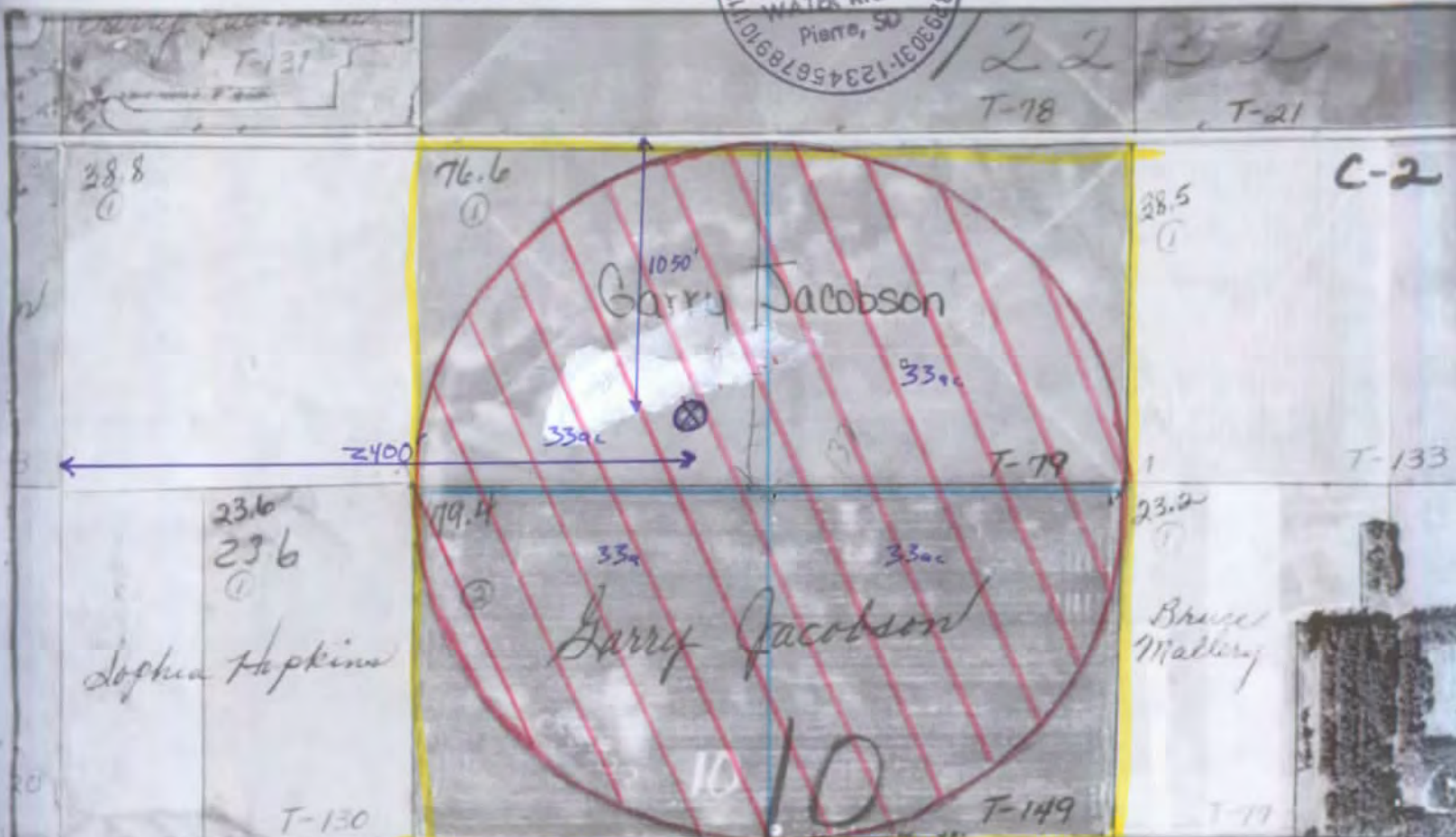
- 1) Does chemigate yes 2) Main line check valve yes
3) Inspection port/air relief yes 4) Low pressure drain yes
5) Discharge is 20' from source yes 6) Interlock type electrical
7) Injection pump type piston 8) Injection check valve yes
9) Injection line check valve or positive displacement pump yes
10) All chemigation equipment appears to be installed in the proper position and complies with chemigation laws and rules yes
11) Comments : #

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by yes
2) All structures, wells and lands on map yes
3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period yes

Done
10-8-92

NOT TO SCALE



129.0
①

~~189.4~~
(2) 191.4

CRP
90-77

Mark D Rath
Natural Resources Engineer
Division of Water Rights
Date 8/26/96



122-52

5723-3

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5723-3

(1) CSS Farms, 3334 9th Ave SW, Watertown SD 57201 made Application No. 5723-3, October 13, 1992 for a water permit to divert 2.22 cubic feet of water per second from groundwater (one well), Roberts County, South Dakota for irrigation purposes. Permit No. 5723-3, with a priority date of October 13, 1992 was approved December 1, 1993 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before December 1, 1998 and for the application to beneficial use of said water on or before December 1, 2002.

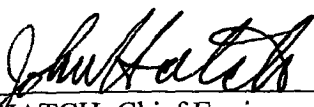
The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on December 22, 1995. The *Notice* stated the diversion system was completed on May 1, 1995 and the water placed to beneficial use on June 1, 1995.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.89 cubic feet of water per second for beneficial use. The location of the diversion point is 1,050 feet south and 2,400 feet east from the northwest corner of Section 10-T122N-R52W (NE 1/4 NW 1/4).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 10-T122N-R52W	NE 1/4 NW 1/4	33 acres
	SE 1/4 NW 1/4	33 acres
	NW 1/4 NE 1/4	33 acres
	SW 1/4 NE 1/4	33 acres
Total		132 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 CSS Farms, 3334 9th Ave SW, Watertown SD 57201 the holder and/or owner of Water Permit No. 5723-3 is issued a license to appropriate water, the right to use 1.89 cubic feet of water per second from groundwater (one well) with a priority date of October 13, 1992 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Permit No. 5723-3 and subject to South Dakota State Law.



JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

OCT 17 1996

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

September 11, 1996

CSS Farms
Milt Carter
3334 9th Ave SW
Watertown SD 57201

Dear Mr. Carter:

Pursuant to our phone conversation this morning, enclosed are two partially completed *Notice of Transfer of Ownership* forms. The form for Water Permit No. 5378-3 transfers the permit to CSS Farms. The other form will transfer Water Permit No. 5586-3 to Robert Carr. Each form needs to be signed by the owner and notarized. The filing fee for each transfer is \$2.50.

Mark Rath, engineer with this office, completed the inspections of several of CSS Farms water use systems. The final water right document, the Water License, can now be issued for the following permits:

- 5376-3 (SW 1/4 Sec 18-T118N-R52W),
- 5378-3 (N 1/2 SW 1/4 Sec 18-T118N-R52W),
- 5723-3 (E 1/2 NW 1/4, W 1/4 NE 1/4 Sec 10-T122N-R52W)
- 5724-3 (SE 1/4 Sec 3-T122N-R52W)
- 5586-3 (SW 1/4, W 1/2 SE 1/4, SE 1/4 NW 1/4, SW 1/4 NE 1/4 Sec 28-T120N-R51W) will incorporate 5263-3 [listed in the name of Robert Carr] after 5586-3 has been transferred to Robert Carr.

Statutes require a \$50.00 fee for each inspection and issuance of the Water Licenses. The total amount due for the two *Notice of Transfer of Ownership* forms and the five water licenses will be \$255.00. Upon receipt fees and transfer forms, the water licenses will be issued. If you have any questions, please contact me.

Please send fee to:

Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

Sincerely,

Karen Schlaak

Karen Schlaak
Environmental Scientist
605 773-3352

enclosures

RECEIPT

415095

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____, September 13, 19 96

RECEIVED OF CSS Farms, Inc., 3334 9th Ave SW Watertown SD 57201

the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>5723-3</u>	5000	
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By

John Hatch
Chief Engineer

JOHN HATCH

ks



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

OCT 17 1996

CSS Farms
Milt Carter
3334 9th Ave SW
Watertown SD 57201

Dear Mr. Carter:

Enclosed are the Water License Nos. 5376-3, 5378-3, 5723-3, 5724-3 and 5586-3. These are the final documents which complete the process of obtaining a water right.

Water License No. 5378-3 has been transferred to CSS Farms. Water License No. 5586-3 has been transferred to Robert L. Carr. The applicable portions of Water Permit No. 5263-3 have been incorporated into Water License No. 5586-3. The receipts for the water licenses and transfers fees are enclosed.

As long as CSS Farms uses the water beneficially, as stated in the Water Licenses, State Water Laws a continuing right to use the water.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

ks

enclosures



February 4, 1997

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

 JOE FOSS BUILDING
 523 EAST CAPITOL
 PIERRE, SOUTH DAKOTA 57501-3181
NOTICE
TO: CSS FARMS, MILT CARTER, 3334 9TH AVE SW, WATERTOWN, SD 57201

FROM: Ron Duvall, Natural Resources Engineer
 for John Hatch, Chief Engineer
 Water Rights Program

SUBJECT: Violation of Water Permit No(s) 3229-3, 3782-3, 4180A-3, 4182-3, 4588-3A, 4604-3, 5166-3, 5173-3, 5174-3, 5338A-3, 5376-3, 5377-3, 5378-3, 5379-3, 5586-3, 5723-3 & 5724-3, 2120-3, 3672-3, 4041-3 & 4181-3 and 1996 Irrigation Questionnaire Requirements

Our records indicate that the 1996 Irrigation Questionnaire has not been submitted for Permit No(s) 3229-3, 3782-3, 4180A-3, 4182-3, 4588-3A, 4604-3, 5166-3, 5173-3, 5174-3, 5338A-3, 5376-3, 5377-3, 5378-3, 5379-3, 5586-3, 5723-3 & 5724-3, 2120-3, 3672-3, 4041-3 & 4181-3. The request for the Questionnaires was dated October 24, 1996. The Water Management Board has directed that owners of water permits who have not submitted the 1996 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing held by the Board will be to determine if Permit No(s) 2120-3, 3672-3, 4041-3 & 4181-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 3229-3, 3782-3, 4180A-3, 4182-3, 4588-3A, 4604-3, 5166-3, 5173-3, 5174-3, 5338A-3, 5376-3, 5377-3, 5378-3, 5379-3, 5586-3, 5723-3 & 5724-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 2:30 pm, March 5, 1997 in Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 3229-3, 3782-3, 4180A-3, 4182-3, 4588-3A, 4604-3, 5166-3, 5173-3, 5174-3, 5338A-3, 5376-3, 5377-3, 5378-3, 5379-3, 5586-3, 5723-3 & 5724-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2120-3, 3672-3, 4041-3 & 4181-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaires are received in this office on/or before February 28, 1997, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (605) 773-3352.

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



February 4, 1997

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

NOTICE

TO: MILT CARTER
CSS FARMS
3334 9TH AVE SW
WATERTOWN SD 57201

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

RE: Failure to Report Chemical Use under Water Permit No(s) 2120-3; 3229-3; 3672-3; 3782-3; 4041-3; 4181-3; 4182-3; 4588-3A; 4604-3; 5166-3; 5173-3; 5174-3; 5332-3; 5338A-3; 5376-3; 5377-3; 5378-3; 5379-3; 5586-3; 5723-3 & 5724-3

The first notice to file chemigation report(s) for Permit No(s) 2120-3; 3229-3; 3672-3; 3782-3; 4041-3; 4181-3; 4182-3; 4588-3A; 4604-3; 5166-3; 5173-3; 5174-3; 5332-3; 5338A-3; 5376-3; 5377-3; 5378-3; 5379-3; 5586-3; 5723-3 & 5724-3 was dated 10/24/96. Our records indicate that we have not received the 1996 chemigation report for any of the above listed permits. The Water Management Board has directed that owners of water permits who have not submitted the 1996 chemigation report(s) be given notice of violation and hearing before the board. The hearing held by the board is to determine what action is to be taken concerning violation of Administrative Rule 74:02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical applied.

The hearing will be held at 2:30 PM on March 5, 1997, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 46-2-17. These are contested case hearings pursuant to chapter 1-26. According to SDCL 46-1-12, the board may suspend a permit for a period of up to one year for the first violation or up to three years for the second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s). 2120-3; 3229-3; 3672-3; 3782-3; 4041-3; 4181-3; 4182-3; 4588-3A; 4604-3; 5166-3; 5173-3; 5174-3; 5332-3; 5338A-3; 5376-3; 5377-3; 5378-3; 5379-3; 5586-3; 5723-3 & 5724-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the chemigation report(s) is(are) received by this office on/or before February 28, 1997 your name will be deleted from the board agenda.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 East Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

February 12, 1997

Milt Carter
CSS Farms
3334 9th Ave SW
Watertown, SD 57201

Dear Mr. Carter:

I am writing to acknowledge receipt of your 1996 irrigation questionnaires and chemical reporting forms. You may disregard the February 4, 1997, **Notices of Violation**.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you and if you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352



July 18, 2002

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

Jim Carter
CSS Farms
3334 9th Ave SW
Watertown, SD 57201

Dear Mr. Carter:

This letter is in reference to a complaint we received concerning overspray on public right-of-ways by your centerpivot endguns. On July 1, 2002, Mark Rath from my office investigated the overspray complaint and observed one of your centerpivots overspraying an unimproved section line road between section 3 and 4 in T122N-R52W (Res) in Roberts County. He met with you concerning this matter on July 2, 2002. At that time you acknowledged the problem and indicated you would remedy the situation promptly.

I would like to remind you that you are not allowed to operate an irrigation system in violation of state water law, which includes allowing unauthorized overspraying to occur. I appreciate your efforts at correcting this problem, where they may exist, on any and all of your centerpivots.

If you have any questions, please contact Mark Rath of the Water Rights Program at phone (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

CSS FARMS, Inc.					
Farm Land with Water Permit #'s					
In CSS Farms, Milt Carter or Other Name					
Please Transfer all Water Permits to Land Owners					
Updated: 1-16-07					
		Permitted	Irrig.		
CSS FARMS, Inc.		Irrig.	Permit	Current	
Field Name	Irrigated Land Legals	Acres	#	Owner	Operator
Codington County:					
Drake	Sec 10 T119N R51W	132	3672-3	Coast Properties Investors LLC	Greg Endres
McElhaney-East	Sec 16 T118N R52W	220	5166-3	John Norgaard etl	Terry Endres
Regnier	Sec 21 T118N R52W	165	5379-3	Don Endres	Terry Endres
Toft-North & South	Sec 16 T118N R52W	190	2120-3	Don Endres	Terry Endres
Grant County:					
Allison	Sec 20 T120N R51W	130	5338A-3	Milton Allison	Greg Endres
Berger- South	Sec 16 T121N R52W	132	6099-3	Endres Family Trust	Greg Endres
Ollman	Sec 17 T121N R52W	132	6030-3	Endres Family Trust	Greg Endres
Kneeland	Sec 9 T121N R52W	132	5968-3	Don Endres	Greg Endres
Loken-East	Sec 10 T120N 52W	70	5378-3	Endres Family Trust	Terry Endres
Loken-West	Sec 9 T120N 52W	174	5377-3	Endres Family Trust	Terry Endres
Meyer-East & South	Sec 28 & 33 T120N R51W	400	3782-3	Robert L. Carr	Greg Endres
Meyer-Middle	Sec 28 T120N R51W	168	5586-3	Robert L. Carr	Greg Endres
Meyer-North & West	Sec 21 & 28 T120N R51W	302	5173-3	Robert L. Carr	Greg Endres
Roberts County:					
Jake 1	Sec 34 T123N R52W	156	4604-3	Endres Family Trust	Greg Endres
Jake 2, 5 & 6	Sec 3 & 4 T122N R52W	393	4041-3	Endres Family Trust	Greg Endres
Jake 3	Sec 3 T122N R52W	132	5724-3	Endres Family Trust	Greg Endres
Jake 4	Sec 10 T122N R52W	132	5723-3	Endres Family Trust	Greg Endres
Richardson	Sec 3 T122N R52W	136	6029-3	Endres Family Trust	Greg Endres
Utne	Sec 33 T121N R52W	136	6004-3	Don Endres	Greg Endres
Total Permitted Acres:		3432.0			
Note: Endres Family Trust--Jim Endres is the contact person					
Coast Properties Investors LLC--Dr. L.A. Sigdestad is the contact person					
Milton Allison	1434 Linden Dr.	Ames, IA 50010-5532			515-232-3389
Robert Carr	506 Washington Ave	Marshall, MN 56258-7661			507-532-2291
Don Endres	108 Half Moon Rd	Brookings, SD 57006-3906			605-690-1385
Jim Endres	17212 460th Ave	Watertown, SD 57201			605-881-0424
Terry Endres	17214 460th Ave	Watertown, SD 57201			605-881-0423
Greg Endres	2011 South Serenity Dr.	Watertown, SD 57201			605-880-1711
John Nordgaard	542 Terrace Dr.	Grand Forks, ND 58201-7661			701-739-3819
Dr. L. A. Sigdestad	2605 S Waterman Ave	San Bernardino, CA 92408			909-709-6200

RECEIVED

JAN 19 2007

WATER RIGHTS
PROGRAM



5723-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 17, 2007

Jim Endres
Endres Family Trust
17212 460th Ave
Watertown SD 57201

RE: Water Right Nos. 5377-3, 5378-3, 5723-3, 5724-3, 6029-3, 6030-3 and 6099-3

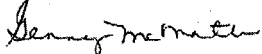
Dear Mr. Endres:

I am writing in follow-up to our phone conversation regarding ownership of the above water rights.

Enclosed are partially completed Notice of Transfer of Ownership forms for filing the ownership changes. Please review the forms and complete as needed. Upon completion, please sign and return them to our office with a required filing fee of \$2.50 each (**total of \$17.50**). The check or money order for the fee can be made payable to the Water Rights Program.

If I can answer any questions for you, please contact me.

Sincerely,


Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

September 12, 2007

Jim Endres
Endres Family Trust
17212 460th Ave
Watertown SD 57201

RE: Water Right Nos. 5377-3, 5378-3, 5723-3, 5724-3, 6029-3, 6030-3 and 6099-3

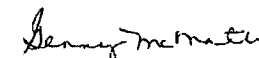
Dear Mr. Endres:

I am contacting you in regard to ownership of land described in Water Right Nos. 5377-3, 5378-3, 5723-3, 5724-3, 6029-3, 6030-3 and 6099-3. These are water rights that describe irrigation of land formerly owned by CSS Company.

On July 17th I sent transfer forms to you for filing ownership changes and to date I have not received anything back from you. In the event you do not have the original forms, I am including another partially completed set for you to use. Please review the forms and complete as needed. Upon completion, please sign and return them to our office with a required filing fee of \$2.50 each (**total of \$17.50**). The check or money order for the fee can be made payable to the Water Rights Program.

If the water rights should no longer be transferred, please get in touch with me.

Sincerely,


Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-5455
email: genny.mcmath@state.sd.us

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 11, 2008

Jim Endres
Endres Family Trust
17212 460th Ave
Watertown SD 57201

RE: Water Right Nos. 5377-3, 5378-3, 5723-3, 5724-3, 6029-3, 6030-3 and 6099-3

Dear Mr. Endres:

I am contacting you in regard to ownership of land described in Water Right Nos. 5377-3, 5378-3, 5723-3, 5724-3, 6029-3, 6030-3 and 6099-3. These are water rights that describe irrigation of land formerly owned by CSS Company.

On July 17 and September 12, 2007, I sent transfer forms to you for filing ownership changes and to date have not received anything back from you. Under South Dakota Water Law, Notice of any sale, grant, lease or conveyance of a permit or license to appropriate water shall be filed with the Chief Engineer within ninety days. If you no longer own the land and I should be contacting someone else, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-5455
email: genny.mcmath@state.sd.us

enclosures

c: Greg Endres, 2011 S Serenity Dr, Watertown SD 57201

5723-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2008

Jim Endres
Endres Family Trust
17212 460th Ave
Watertown SD 57201

RE: Water Right Nos. 5377-3, 5378-3, 5723-3, 5724-3, 6029-3, 6030-3 and 6099-3

Dear Mr. Endres:

Thank you for calling and discussing the ownership changes needed for Water Right Nos. 5377-3, 5378-3, 5723-3, 5724-3, 6029-3, 6030-3 and 6099-3. I have enclosed copies for your review.

Enclosed are partially completed forms for filing ownership changes with each water right. Please complete and sign each form. Upon completion, return them to our office with a required filing fee of \$2.50 each (**total of \$17.50**). The check or money order for the fee can be made payable to the Water Rights Program.

The copies of the water rights are yours to keep. The only items we need back are the signed transfer forms and the filing fee. If I can answer any questions for you, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-5455
email: genny.mcmath@state.sd.us

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

JUL 30 2008

WATER RIGHTS
PROGRAM

No. 5723-3

Date: 7/21/08

I/We request that Water Right No. 5723-3

formerly owned by: CSS Farms

be transferred to: (name & address) Endres Family Trust by Jim Endres
17212 460th ave Watertown S.D. 57201
Telephone No. 605-886-7342

Title to the following described land(s)/property has been transferred as described above:

132 acres - E 1/2 NW 1/4 and W 1/2 NE 1/4 Section 10, T122N, R52W

I/We understand that the validity of Water Right No. 5723-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Jim Endres, the new owner, certify that the above information is true and correct.

Endres Family Trust
by Jim Endres
(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 8/28, 20 08

RECEIVED OF Endres Family Trust J Endres 17212 460th Ave Watertown SD 57201

The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	2	50
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
1 Fee for Filing Transfer Form _____ 5723-3		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	2	50
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	
	2	50

No.

03754

By

Michael Erbe
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 15, 2008

Jim Endres
Endres Family Trust
17212 460th Ave
Watertown SD 57201

RE: Water Right Nos. 5377-3, 5378-3, 5723-3, 5724-3, 6029-3, 6030-3 and 6099-3

Dear Mr. Endres:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for changing ownership on the above listed water rights. The ownership changes have been completed. The water rights once listed in the name of Milton G Carter or CSS Farms are now listed in the name of "Endres Family Trust".

Enclosed are Receipt Nos. 03732 through 03738 in the amounts of \$2.50 each which you paid for filing the ownership changes. You may keep these for your records.

We have Gene Endres listed as operator of the systems described in each one of the water rights. The annual irrigation questionnaires will continue to be directed to Gene's attention until you notify us otherwise. If I can answer any questions for you, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-5455
email: genny.mcmath@state.sd.us

enclosures

c: Gene Endres

4041-3, ~~4041-3~~ & 7073-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 4041-3 – Endres
Water Right No. 5723-3, Endres
Water Permit No. 7073-3, Gaikowski

ADDRESS: COUNTY: Roberts

DATE: August 9 and 10, 2012 TELEPHONE:

RE: Center Pivot overspray

At 11:30 AM, August 9, 2012, Delwin Pies called to complain of end gun overspray on to roads and his property from center pivots located in Sections 4, 5 and 10. The pivots in Sections 4 and 10 are owned by Jim Endres and operated by Greg Endres. The pivot in Section 5 is owned by Duane Gaikowski.

Mr. Pies said the most urgent was in Section 10 as someone with the BIA is attempting to put in a post for a sign and this has caused them to drive on pasture ground he leases from the tribe.

Upon receiving the complaint I called and left messages for Greg Endres (882-1711), Jim Endres (886-7342). I also attempted to contact Duane Gaikowski (947-4623).

Friday, August 10, 2012

8:30 AM, Duane Gaikowski called and saw from caller ID that I tried calling. I explained by Mr. Pies had called to complain about the end gun stops on one of the pivots in Section 5 not being properly set and there being overspray on the road. He indicated he would go check on it.

8:40 AM, Jim Endres returned my call and said that Greg Endres operates the ground and is going up there to check on the situation.

8:50 AM, Greg Endres called. He indicated about a week ago they put in new Ag Sensor controllers on the pivots where they can control and monitor pivot operation on-line. He said there may need to be some adjustments needed to the calibration and will work to remedy it if any overspray is occurring. He was surprised about the complaint on Section 10 as they've had problems with the well resulting in the pivot not being used much this year.

Cell Phone numbers

Greg Endres – 605 880-1711

Jim Endres – 605 881-0424

NAME: Eric Hunter



4041-3
DEPARTMENT of ENVIRONMENT 5723-3
and NATURAL RESOURCES 7073-3

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

August 10, 2012

Delwin Pies
45187 138th Street
Waubay SD 57273

Dear Mr. Pies:

In response to your phone call on August 9, 2012, DENR contacted Greg Endres and Duane Gaikowski regarding end gun overspray from center pivots operating in Sections 4, 5 and 10 of Ortley Township in Roberts County. Your concern was that water is being sprayed on to roads and land that you are haying. Both Mr. Endres and Mr. Gaikowski indicated they will check the pivots and end gun stops to insure proper operation.

At this time, DENR is satisfied with Mr. Endres and Mr. Gaikowski's commitment to check the end guns and insure proper operation. Please let DENR know if the end gun operation is not remedied where direct end gun spray is being applied to the road or inappropriate lands.

Sincerely,


Eric Gronlund

Water Rights Program, DENR
605 773-3352

c: Greg Endres, 2011 S Serenity Drive, Watertown SD 57201
Duane Gaikowski, 13872 450th Avenue, Waubay SD 57273

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

PAID

FEB 25 2021

Ck# 20033

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

FEB 25 2021

WATER RIGHTS
PROGRAMWater Right/Permit No. 5723-3Date: 2-23-21

I/We request that Water Right/Permit No. 5723-3 formerly owned by:
Endres Family Trust be transferred to:

New Owner Name: Wohlbecker Enterprises LLC
Address: 14959 461st Ave
City, State, Zip: South Shore SD 57263 Telephone No. 605-398-6173
605-881-8535

Title to the following described land(s)/property has been transferred as described above:

E 1/2 NW 1/4 + W 1/2 NE 1/4 Sec 10-T122N-R52W

☒ I understand that the validity of Water Right/Permit No. 5723-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, JAMES WOHLBECKER, the new owner, certify that the above information is true and correct.


(signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

5723-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Environment and Natural Resources

Date February 25, 2021RECEIVED OF Wohlleber Brothers Partnership 14959 461st Ave South Shore SD 57263

The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$
Fee to retain Future Use Permit No. _____ after period of seven years.	\$
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$
Fee for Filing Transfer Form <u>5723-3</u>	\$50.00
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law)	
TOTAL	\$50.00

By Eric Gronlund
 Chief Engineer
 vm

5723-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

March 2, 2021

James Wohlleber
Wohlleber Enterprises LLC
14959 461st Ave
South Shore SD 57263

RE: Water Permit/Right Nos. 4604-3, 5723-3, 6835A-3, 7036-3, 7832-3, 8028-3, 8036-3

Dear Mr. Wohlleber:

I am writing to acknowledge receipt of the transfer forms and filing fees submitted for changing ownership on the above listed water permits and water rights.

The ownership changes have been completed. The above listed water permits, and water rights are now listed under Wohlleber Enterprises LLC.

Enclosed are the receipts for the filing fees and stamped copies of the transfer forms for your records. If I can answer any questions, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Genny McMath".

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

enclosures